



# Service Animals in Places of Business

## Disability Rights Center - NH

Protection and Advocacy System for New Hampshire

Disability Rights Center - NH is dedicated to eliminating barriers existing in New Hampshire to the full and equal enjoyment of civil and other legal rights by people with disabilities.

If you have further questions about service animals and your rights, contact DRC.

### Disability Rights Center - NH

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This brochure is not meant to be legal advice. For specific legal advice, consult an attorney.

Under the Americans with Disabilities Act (ADA), privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

The New Hampshire law is RSA 167-D, and it says "It is lawful for any service animal to accompany his or her handler or trainer into any public facility, housing accommodation, or place of public accommodation to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons."

The ADA defines a service animal as "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability." The service animal does not need to be professionally trained. Emotional support animals are not considered service animals under the ADA. Animals other than dogs are no longer considered service animals as of March 2011, with the exception of some miniature horses.

Service animals perform one or more functions and tasks that the individual with a disability cannot perform for him or herself and must be directly related to the disability. Most people are familiar with guide dogs, used by some individuals who are blind. There are other dogs that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- alerting a person who is deaf or hard of hearing to the presence of people or sounds
- pulling a wheelchair or retrieving items
- assisting a person during a seizure
- alerting a person to the presence of allergens
- providing physical support and assistance with balance and stability
- helping a person with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.



**What is a service animal?**



# Service Animals in Places of Business

## **Can I be required to provide proof that my service animal is not a pet?**

No. Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. The business may ask you if it is a service animal required because of a disability, and ask what work or tasks the animal has been trained to perform. Documentation may not be required as a condition for providing service to an individual accompanied by a service animal. Although some states have programs to certify service animals, New Hampshire does not, and in any case the business may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

## **What must the business do when I bring my service animal into the facility?**

The service animal must be permitted to accompany you to all areas of the facility where customers and the public are normally allowed to go. You may not be segregated from other customers.

## **If there is a posted "no pets" policy at the establishment, does it still have to allow service animals in?**

Yes. A service animal is not a pet. The ADA requires the business to make an exception to the "no pets" policy to allow the use of a service animal by a person with a disability.

## **Can the business charge a maintenance or cleaning fee?**

No. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability, even if deposits

are routinely required for pets.

However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages. For example, a hotel can charge a guest with a disability for the cost of repairing or cleaning furniture damaged by a service animal if it is the hotel's policy to charge when non-disabled guests cause such damage.

## **Are taxicabs required to allow service animals into the vehicle?**

Yes. Taxicab companies may not refuse to provide services to individuals with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge to other persons for the same or equivalent service.

## **What if a service animal barks or growls at other people, or otherwise acts out of control?**

Any animal, including a service animal, can be excluded from a facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. The business may not make assumptions, however, about how a particular animal is likely to behave based on past experience with other animals. Each situation must be considered individually.

A service animal must be housebroken.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a

disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

## **Can a business exclude an animal that doesn't really seem dangerous but is disruptive to business?**

There may be a few circumstances when a public accommodation is not required to accommodate a service animal -- that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when it does, for example, when a dog barks during a movie, the animal can be excluded.

